

Remarks

Claims 3-18 are now pending in this application. Applicants have amended claims 9, 12-14, 16, and 17 to clarify the present invention. Applicants respectfully request favorable reconsideration of this application.

The Examiner rejected claimed 3, 4 and 6-16 under 35 U.S.C. § 102(e) as being anticipated by U.S. patent 7,027,193 to Spears et al. The Examiner rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Spears et al. in view of U.S. patent 6,005,617 to Shimamoto et al. The Examiner rejected claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Spears et al. in view of U.S. patent 7,027,193 to Okino et al.

Spears et al. does not disclose the present invention as recited in independent claims 9 or 16 since, among other things, Spears et al. does not disclose a sensor for imaging characteristics of an object where the sensor includes a first area of pixels for imaging three-dimensional geometrical characteristics of the object. Rather, Spears et al. discloses a device that measures color and luminescence. The reference to three-dimensional color space and two-dimensional luminescence space are not referring to two and three-dimensional characteristics of an object. Rather, Spears et al. is referring to a system for characterizing color.

Color is a characteristic of an object and includes the wavelength distribution of the light reflected from the object. Color is a continuous function covering the so-called "visible spectrum" of electro-magnetic radiation from blue to red. This information is typically

approximately represented by three coordinates in a color space, e.g. red-green-blue or hue-saturation-value. However, color can also be represented by less or more values depending on the accuracy of the representation. Independent of the dimensionality of the representation used the color information has no bearing to the geometrical shape, or three-dimensional (3D), characteristics of the object. Three-dimensional characteristics, as given by the first area of pixels, is related to the geometrical shape of the object and not the wavelength distribution.

In view of the above, Spears et al. does not disclose all elements of the present invention as recited in claims 9 and 16 and claims 3, 4, 6-8, and 10-15, which depend therefrom. Since Spears et al. does not disclose all elements of the present invention as recited in claims 3, 4 and 6-16, the present invention, as recited in claims 3, 4 and 6-16, is not properly rejected under 35 U.S.C. § 102(b). For an anticipation rejection under 35 U.S.C. § 102(b) no difference may exist between the claimed invention and the reference disclosure. *See Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q. 841 (C.A.F.C. 1984).

Along these lines, anticipation requires the disclosure, in a cited reference, of each and every recitation, as set forth in the claims. *See Hodosh v. Block Drug Co.*, 229 U.S.P.Q. 182 (Fed. Cir. 1986); *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985); *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986).

The combination of Spears et al. and Shimamoto et al. does not suggest the present invention as recited in claim 5, which ultimately depends from claim 16, since, among other

things, Spears et al. does not suggest a sensor for imaging characteristics of an object where the sensor includes a first area of pixels for imaging three-dimensional geometrical characteristics of the object. Rather, Spears et al. discloses a device that measures color and luminescence. The Examiner cites Shimamoto et al. as suggesting time delay integration on a second area. Providing the device suggested by Spears et al. with the time delay integration suggested by Shimamoto et al. does not suggest the present invention since the combination still would not suggest a sensor for imaging characteristics of an object where the sensor includes a first area of pixels for imaging three-dimensional geometrical characteristics of the object. Accordingly, the combination of Spears et al. and Shimamoto et al. does not suggest the present invention as recited in claim 5.

The combination of Spears et al. and Okino et al. does not suggest the present invention as recited in claim 17, which depends from claim 16, since, among other things, Spears et al. does not suggest a sensor for imaging characteristics of an object where the sensor includes a first area of pixels for imaging three-dimensional geometrical characteristics of the object. Rather, Spears et al. discloses a device that measures color and luminescence. The Examiner cites Okino et al. as suggesting three-dimensional characteristics. However, Okino et al. suggests a method to convert image sequences containing 2D information gathered during camera motion to image sequences containing 3D information for the purpose of visualization of this 3D information. Okino et al. does not suggest a sensor or other kind of imaging system for measurement of three-dimensional geometric characteristics of an objection. Accordingly, the combination of Spears et al. and Okino et al. does not suggest the present invention as recited in claim 16.

In view of the above, the references relied upon in the office action, whether considered alone or in combination, do not disclose or suggest patentable features of the present invention. Therefore, the references relied upon in the office action, whether considered alone or in combination, do not anticipate the present invention or make the present invention obvious. Accordingly, Applicants respectfully request withdrawal of the rejections based upon the cited references.

In conclusion, Applicants respectfully request favorable reconsideration of this case and early issuance of the Notice of Allowance.

If an interview would advance the prosecution of this application, Applicants respectfully urge the Examiner to contact the undersigned at the telephone number listed below.

The undersigned authorizes the Commissioner to charge fee insufficiency and credit overpayment associated with this communication to Deposit Account No. 22-0261.

Dated: July 11, 2008

Respectfully submitted,

Electronic signature: /Eric J. Franklin/
Eric J. Franklin
Registration No.: 37,134
VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998
(202) 344-4000
(202) 344-8300 (Fax)
Attorney/Agent For Applicant